



- 2019 -

---

**CONCEPT WHITE PAPER: BUILDING A PIPELINE FOR CHANGE**

---



*“Working Together To Do Some Good”*

[www.probonobar.org](http://www.probonobar.org)



*"What makes the desert beautiful," said the little prince, "is that somewhere it hides a well...."*

~ Antoine de Saint-Exupéry, *The Little Prince*

## **Executive Summary**

The legal profession is both a business and a calling. While popular stereotypes of lawyers readily conjure up images of the former, understanding of the latter is more elusive. While it is true that legal practice has been known to provide material benefits to some who practice law to obtain them, something a bit less tangible and far more noble draws a significant number of us to study and to practice law, namely, the desire to advocate on behalf of those in need to change bad situations for the better, whether in a single client's life or in the world at large. As with so many of life's dreamers, legal professionals often begin their careers with the best intentions, but lose sight of their noble goals amid the challenges life presents along the way.

But wait. What if it were possible for those who have legal training, legal experience, and a heart to make positive change to put their legal talents to meaningful use in parts of the world where they are needed most, whether near or far, and whether as practicing lawyers or other legal professionals, law students, law professors, or even former lawyers who retired or left the practice of law to raise families? Realizing the powerful implications of the answer to this question is the purpose and the promise of The Global Pro Bono Bar Association ("**The Global Pro Bono Bar**"). The Global Pro Bono Bar is about working to channel pools of good will and excess legal capacity that often lay waste in globalization's legal landscape into transnational pipelines, supporting local advocates struggling to do good in areas thirsty for public interest legal support around the globe. At the same time, it is also about reclaiming the noble dreams of those who once came to the law to make a difference, making it possible for them to rediscover their own wells in the desert.

The inequalities of globalization need not be perpetuated by the separations of national legal systems. Rather, the power of globalization and new technologies can be harnessed in the provision of public interest legal services to effect tangible, scalable, and meaningful change in local communities in dire need of legal support around the world. As international lawyers, we have seen first-hand the potential for privileged and multinational clients to overcome legal challenges to doing business across and beyond national borders, often through the collaborative efforts of strategic counsel and local partners. We have also seen the potential of pro bono legal initiatives in the private sector to touch lives, including in the transnational fight against human trafficking, as we have developed such projects across four continents in collaboration with local teams of civil society organizations around the world.

Still, there is so much more that could be done. The Global Pro Bono Bar is our answer to the question of what is possible, and this white paper is your invitation to get involved. **Together, our vision is to empower individual advocates of conscience around the world to work together to realize universal human rights, human dignity, and critical public interest advocacy in areas of broad moral consensus. In order to support those negatively impacted by or forgotten in globalization, we transfer the capacity for high-quality, impactful, and meaningful engagement from areas of overabundance to areas of need.**

Following this Executive Summary, this concept white paper explores (1) globalization's legal deserts (*i.e.*, areas that lack sufficient support for public interest legal advocacy); (2) The Global Pro Bono Bar Theory of Change (*i.e.*, an approach to building transnational pipelines of public interest legal support from jurisdictions of higher legal capacity to jurisdictions of lower legal capacity); (3) The Global Pro Bono Bar Operating Model ("Globally Sourced, Locally Tapped"); (4) The Global Pro Bono Bar Value Propositions and developing projects; (5) The Global Pro Bono Bar Expansion Phases; and (6) answers to anticipated concerns over The Global Pro Bono Bar Operating Model (*i.e.*, "clearing potential blockages in the pipelines" by addressing anticipated challenges that may otherwise seem to impede the delivery of public interest legal assistance). This white paper then concludes by providing (7) a sample of the growing list of institutional partners in The Global Pro Bono Bar Network and explaining how you can get involved.

### **Globalization's Legal Deserts: Disparity in Legal Capacity**

In the United States, the American Bar Association has reported that there are over 1.3 million "resident and active attorneys."<sup>1</sup> Together with the relatively strong pro bono ethic of U.S. legal culture, the U.S. legal system has facilitated "the delivery of billions of dollars of legal support to vulnerable groups who need it most and cannot afford it, involving the participation of hundreds of thousands of private sector lawyers."<sup>2</sup> Of course, there is a striking disparity in public interest legal capacity across the global legal landscape, with some areas of the world swimming in lawyers and others desperately thirsty for public interest legal services. Ultimately, this scarcity of capacity in certain areas was part of the impetus for the United Nations to adopt Sustainable Development Goal ("SDG") 16:

*Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*<sup>3</sup>

As the United Nations Development Programme ("UNDP") has recognized, SDG 16 is "not only a valuable and important aspiration in its own right, it is also an important enabling goal for the entire sustainable development agenda," with a broad ambit of required legal action including access to justice initiatives, political rights advocacy, anti-discrimination efforts, and the pursuit of legal protections against "all forms of violence."<sup>4</sup>

The challenge in eliminating this disparity in the availability of public interest legal services is a difficult one. In fact, a joint publication of the Organisation for Economic Co-operation and

---

<sup>1</sup> ABA National Lawyer Population Survey: Historical Trend in Total National Lawyer Population 1878-2017, AMERICAN BAR ASSOCIATION (2017), available at [https://www.americanbar.org/content/dam/aba/administrative/market\\_research/Total%20National%20Lawyer%20Population%201878-2017.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/market_research/Total%20National%20Lawyer%20Population%201878-2017.authcheckdam.pdf).

<sup>2</sup> *Id.* at 41.

<sup>3</sup> Sustainable Development Goal 16 - Sustainable Development Knowledge Platform, UNITED NATIONS DEPT. OF ECON. AND SOCIAL AFFAIRS, available at <https://sustainabledevelopment.un.org/sdg16> (accessed Jan. 15, 2018).

<sup>4</sup> UNDP PROJECT DOCUMENT (2017-2021): ADVANCING THE SDGs BY BUILDING PEACEFUL, JUST AND INCLUSIVE SOCIETIES, UNITED NATIONS DEVELOPMENT PROGRAMME, p. 8 (2017), available at <http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/conflict-prevention/advancing-the-sdgs-by-building-peaceful-just-and-inclusive-soci.html>.

Development (“OECD”) and the Open Society Foundations recently observed the following in regard to barriers to accessing justice:

*Many economic, structural, and institutional factors hinder access to justice, including the complexity and cost of legal processes, time, and geographical and physical constraints. Importantly, many people — especially those in vulnerable and marginalized groups — neither recognize their problems as legal ones, nor identify the potential legal remedies for those problems. Cost, including opportunity cost, and trust in the justice system are also important factors in determining whether or not people seek legal assistance, or take action at all, to resolve their legal problems.<sup>5</sup>*

This is bad news, not because the barriers to accessing justice are insurmountable, but rather because most of the challenges above are rooted locally. While many civil society approaches to overcoming barriers to accessing justice are developed at higher institutional or international levels, the description of the challenge here calls for something very different: personalized legal support at the local level. This is the key insight of The Global Pro Bono Bar Theory of Change.

### **The Global Pro Bono Bar Theory of Change: Transnational Pipelines for Local Support**

In a recent publication describing possible advocacy initiatives toward the realization of SDG 16, the Sustainable Goals Development Fund urged the private sector generally “to consider establishing a central clearinghouse for Rule of Law work, in partnership with various agencies of the UN, NGOs working in the area and local volunteers,” noting that “[i]nterested companies can be matched with Rule of Law projects that suit their expertise, geographic location, area of interest and resources.”<sup>6</sup> We at the Global Pro Bono Bar believe that more can be done. While a number of public interest legal advocacy delivery models operate on a similar clearinghouse principle, The Global Pro Bono Bar is different in that it goes farther to provide something that until now has not been available through a dues-based professional membership organization: coordinated legal research and support services offered in aid of local advocates through globally-sourced virtual advocacy teams. The Global Pro Bono Bar Theory of Change holds that increasing the legal support capacity of local advocates in areas of greater need by leveraging the legal training and experience of those in areas of excess legal capacity is both an efficient and intuitive way to advance public interest advocacy in accordance with SDG 16. As such, The Global Pro Bono Bar offers two distinct programs in support of local advocates:

- 1) **Legal Scholarship**: Targeted scholarship (as opposed to legal opinions) on points of law selected at the request of local advocates with particular legal interests; and
- 2) **Legal Support Services**: Virtual teams of volunteers linked in a redundant cluster model to provide litigation and other public interest legal support to local advocates.

---

<sup>5</sup> ISSUES BRIEF 2016: LEVERAGING THE SDGs FOR INCLUSIVE GROWTH: DELIVERING ACCESS TO JUSTICE FOR ALL, OECD and OPEN SOCIETY FOUNDATIONS, p. 7 (2016).

<sup>6</sup> BUSINESS AND SDG 16: CONTRIBUTING TO PEACEFUL, JUST AND INCLUSIVE SOCIETIES, SUSTAINABLE GOALS DEVELOPMENT FUND, p. 42 (2017).

Identification of The Global Pro Bono Bar as a “bar association” invokes both the pro bono ethic that has proven successful in the U.S. context in establishing minimum expectations for pro bono service as an aspect of professional responsibility as well as an expectation that the organization will continue to be supported in part by the payment of membership dues.<sup>7</sup> As described below, the present is a unique moment to develop The Global Pro Bono Bar as a public interest initiative by leveraging the positive implications of the current disruptive innovations in legal services.

### *The Positive Implications of Disruptive Innovations in Legal Services*

In many areas of the world, those with legal training today are more than the market can bear as, for example, excess legal capacity in the U.S. has resulted from the disruption of the legal services market, driven by the rise of the Internet and globalization.<sup>8</sup> As the OECD Secretariat has noted, “‘disruptive’ innovations are beginning to transform legal services and the manner in which they are delivered.”<sup>9</sup> In particular:

- “**Online service delivery** is allowing both legal professionals and unlicensed providers to serve clients remotely while taking advantage of the scalability of digital platforms.”<sup>10</sup>
- “In addition, **ranking and review information** regarding legal professionals is becoming increasingly accessible, and is allowing clients to assess the quality of professionals before retaining them – a previously difficult proposition.”<sup>11</sup>
- “Further, the **unbundling of services**, partially driven by increasing client awareness and fee pressure, is transforming the distribution of tasks in legal services and ending traditional

---

<sup>7</sup> See *id* at 41 (“In the United States, bar associations have guided or mandated minimum levels of pro bono effort by individual lawyers and by law firms, with the American Bar Association including in its Model Code of Ethics (6.1) a target of a minimum of 50 hours per lawyer, and with the International Bar Association adopting its Pro Bono Declaration, which asserts that ‘access to justice for all individuals is a human right,’ and that ‘the delivery of pro bono service by the legal profession is of vital public and professional interest and helps to fulfill the unmet legal needs of the poor, underprivileged and marginalized.’ In Latin America, the Pro Bono Declaration of the Americas, organized with the advice of the Vance Center for International Justice, now has more than 500 signatories in 21 countries, each targeting 20 hours of pro bono per year as a minimum. The result of this pro bono ethic has been the delivery of billions of dollars of legal support to vulnerable groups who need it most and cannot afford it, involving the participation of hundreds of thousands of private sector lawyers.”).

<sup>8</sup> See Jeff Jacoby, *US legal bubble can’t pop soon enough*, THE BOSTON GLOBE (May 9, 2014), available at <https://www.boston-globe.com/opinion/2014/05/09/the-lawyer-bubble-pops-not-moment-too-soon/qAYzQ823qpfi4GQl2OiPZM/story.html> (“The legal profession, like so many others, has been permanently disrupted by the Internet and globalization in ways few could have anticipated 10 or 15 years ago. Online legal guidance is widely accessible. Commercial services like LegalZoom make it easy to create documents without paying attorneys’ fees. Search engines for legal professionals reduce the need for paralegals and junior lawyers. Maurice Allen, a senior partner at Ropes & Gray, is blunt: ‘There are too many lawyers and too many law firms,’ he said in a published interview last week. That means less work for new law school grads, and therefore less reason to go to law school.”).

<sup>9</sup> *Protecting and Promoting Competition in Response to “Disruptive” Innovations in Legal Services* (Issues Paper by the Secretariat), DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS COMPETITION COMMITTEE, OECD, DAF/COMP/WP2(2016)1, p. 2 (Mar. 9, 2016).

<sup>10</sup> *Id* (emphasis added).

<sup>11</sup> *Id*.

‘black box’ models of service delivery.”<sup>12</sup>

- “Finally, **automation** is changing the nature, and volume, of tasks that legal professionals perform.”<sup>13</sup>

These four disruptive innovations have introduced global competitive pressures into the market for legal services as, for example, “automated systems have been introduced which offer new capabilities and, in at least some instances, improved performance relative to legal professionals.”<sup>14</sup> While the legal services industry focuses on the downward pressure of these innovations on bottom line profits, the reality is that there is a silver lining in the form of dramatically increased availability of public interest legal capacity. That is, an *overabundance of legal capacity now exists in the U.S. and other markets that could be channelled into increased capacity for public interest legal services and advocacy in jurisdictions where it is needed most*. This is the case for those who are actively practicing law as attorneys in law firms or as in-house counsel (*i.e.*, lawyers working as employees in corporate legal departments). It is also true, however, for other legal professionals, legal academics, and those with legal experience who have retired or left the practice of law to raise families. We follow this story of disruption below, touching on each of these groups in turn.

### *Legal Academia*

It has recently become apparent that there are too many law school graduates for the current U.S. legal market to bear [Figure 1]. As the National Association for Law Placement (“NALP”) has reported, the U.S. law school graduating class of 2015 “secured a smaller number of jobs in private practice than any law school graduating class since 1996,” and further, “the relatively small number of private practice jobs obtained by members of the Class of 2015 is historic, important, and worth paying attention to.”<sup>15</sup> As a result, a



**Figure 1: Many Law Students Facing a Tough Legal Employment Market Would Welcome the Opportunity to Become Involved in Public Interest Legal Research and Advocacy through The Global Pro Bono Bar**

significant number of new law school graduates are likely to look to other opportunities outside of the private practice of law. The Global Pro Bono Bar offers these new lawyers something that many of them will undoubtedly view as valuable: the chance to engage with legal advocacy in the global public interest context. Similarly, law faculty members are likely to value the opportunity to engage with such opportunities for advocacy beyond the scope of academic programs, either individually or as professors with student groups in clinical legal education programs [Figure 2].

---

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> James Leipold and Judith Collins, *The Stories Behind the Numbers: Jobs for New Grads Over More Than Two Decades*, NALP.ORG (Dec. 2016), available at <https://www.nalp.org/1216research>.



## Clinical Legal Education

Clinical legal education programs (i.e., “**law clinics**”) also offer ample capacity for engagement with The Global Pro Bono Bar model [Figure 3]. Just for the U.S. alone, for example, the Center for the Study of Applied Legal Education (“**CSALE**”) stated in its 2016-17 Survey of Applied Legal Education that 187 respondent U.S. law schools “reported a total of 1,433 distinct law clinics offered during the 2016-17 academic year,” with 183 of those law schools offering at least one law clinic.<sup>16</sup>

Of those law schools, a large percentage offered substantive focus areas for their clinical programs in 2016-17 that coincide closely with international public interest areas identified for development by The Global Pro Bono Bar, including:



**Figure 3: Many Law Schools and Institutions of Higher Learning Operate Law Clinics Fully Compatible with The Global Pro Bono Bar Model**

placement opportunities for participating law students, with “virtually every law school” (99%) offering “some degree of litigation focused placements” for law students.<sup>18</sup> As an indication of the significant number of U.S. law students participating in such clinics, the report confirms a median participation range for law clinics of 46%-50% of graduating students.<sup>19</sup>

European clinical legal education has been expanding dramatically as well, with the European Network for Clinical Legal Education now reporting 140 Members (either institutional or individual faculty members, etc.) across 30 countries.<sup>20</sup> While these statistics suggest that



**Figure 2: Law Faculty Members Often Have Access to Institutional and Human Resources Readily Channelled into Public Interest Legal Advocacy through The Global Pro Bono Bar Model**

- Immigration (47%);
- Children & the Law (39%);
- Civil Litigation (36%);
- Environmental (24%);
- Human Rights (21%);
- Innocence (21%);
- Asylum/Refugee Law (16%); and
- Community Justice (11%).<sup>17</sup>

Moreover, the CSALE report also confirms that a substantial percentage of law clinics have either titles or organizing principles relating to public interest (52%) and/or international (21%) field placement opportunities for participating law students, with “virtually every law school” (99%) offering “some degree of litigation focused placements” for law students.<sup>18</sup> As an indication of the significant number of U.S. law students participating in such clinics, the report confirms a median participation range for law clinics of 46%-50% of graduating students.<sup>19</sup>

<sup>16</sup> Robert R. Kuehn, et al., *The 2016-17 Survey of Applied Legal Education*, CENTER FOR THE STUDY OF APPLIED LEGAL EDUCATION (2017), p. 8.

<sup>17</sup> *Id.* at 8-9.

<sup>18</sup> *Id.* at 10.

<sup>19</sup> *Id.* at 11.

<sup>20</sup> *Directory of Members*, EUROPEAN NETWORK FOR CLINICAL LEGAL EDUCATION, available at <http://encle.org/membership-directories/mdir> (accessed Jan. 15, 2018).



opportunities abound for engagement with The Global Pro Bono Bar by U.S. and European law students in clinical legal programs, the CSALE report also speaks to the major challenges such programs face as well. In particular, U.S. law school respondents reported that limited funding (56%), time constraints for clinical faculty (46%), insufficient administrative/secretarial support (29%), and insufficient numbers of clinical faculty members (26%) were major challenges law clinics face today.<sup>21</sup> All of these challenges could be alleviated to some degree by the collaborative development of joint advocacy projects with The Global Pro Bono Bar as described below.

### *Non-Practicing and Retired Legal Professionals*

In 2014, the American Bar Foundation and the NALP Foundation for Law Career Research and Education made research results available from the third wave of its seminal longitudinal study *After the JD*. Described as “the first and most ambitious effort to gather systematic, detailed data about the careers and experiences of a national cross-section of law graduates,” this study “follows a large national sample of lawyers admitted to the bar in 2000 over the first decade-plus of their careers and is a unique source of information on the changing nature of legal careers.”<sup>22</sup>



**Figure 4: Many Experienced Legal Professionals Leave Active Law Practice for Other Careers or Family Commitments, but Still Have Interest and Capacity to Pursue Public Interest Advocacy Through The Global Pro Bono Bar Model**

Among the findings the American Bar Foundation has reported from the third wave of statistics from this ambitious study are the following:

- “*Leaving private practice.* Both women and men have continued to exit private law firms [Figure 4]. While almost two thirds of women and three quarters of men respondents began in private practice in Wave 1, by Wave 3, less than 40% of women and 49% of men are working in private practice settings. The most frequent destination for those leaving private law firms is to enter a business organization, either as inside counsel or in a position that does not entail law practice.”<sup>23</sup>
- “*Leaving the practice of law.* A considerable proportion of the sample, some 19% overall, are no longer practicing law . . . .”<sup>24</sup>

<sup>21</sup> Kuehn, et al., *supra* note 16, at 16.

<sup>22</sup> Bryant Garth, et al., *After the JD*, AMERICAN BAR FOUNDATION (2017), available at <http://www.americanbarfoundation.org/research/project/118>.

<sup>23</sup> Gabriele Plickert, ed., *After the JD III: Third Results of a National Study of Legal Careers*, AMERICAN BAR FOUNDATION AND NALP FOUNDATION FOR LAW CAREER RESEARCH AND EDUCATION (2017), p. 17, available at [http://www.americanbarfoundation.org/uploads/cms/documents/ajd3report\\_final\\_for\\_distribution.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/ajd3report_final_for_distribution.pdf).

<sup>24</sup> *Id.*

Those legal professionals who have left the private practice of law, whether for another career, family commitments, retirement, or other reasons, often remain interested in engaging with public interest legal advocacy. The Global Pro Bono Bar Model offers an excellent opportunity to do just that [Figure 5].



**Figure 5: Some Experienced Legal Professionals Who Have Left the Practice of Law, Including Retirees, Have Valuable Years of Experience in Legal Advocacy and the Capacity to Make a Real Difference Through The Global Pro Bono Bar Model**

#### *Lawyers in Private Practice & In-House Counsel*

As discussed above, lawyers working in private practice or as in-house counsel often undertake pro bono legal representation as a way to give back to the community and as an aspect of professional responsibility [Figure 6]. Certainly, these lawyers would also be able to engage with public interest advocacy through The Global Pro Bono Bar Model, either individually or as part of a team of lawyers from a given law firm. It is important to note that in-house counsel attorneys represent an expanding source of legal capacity today in terms of aggregate pro bono support potential as “[r]ecent developments throughout the world have helped to break down some of the barriers formerly hindering in-house counsel’s involvement and have unleashed a section of the legal profession which was previously dormant.”<sup>25</sup> As the Sustainable Goals Development Fund has noted:



**Figure 6: The Efforts of Many Law Firms and In-House Lawyers to Engage with Pro Bono Legal Work to Give Back to their Communities or for the Sake of Professional Responsibility Will Strongly Support The Global Pro Bono Bar Model**

*Large corporations now directly employ hundreds, and sometimes thousands, of lawyers, deploying them in some cases all over the globe. There is a clear trend throughout the legal profession of companies recapturing legal work by hiring in-house lawyers directly to do that work as employees. Corporate legal philanthropy is clearly on the rise via the personal efforts of lawyers in corporate legal departments, and systematic efforts by some corporate legal leaders to engage their staff in public interest law.*<sup>26</sup>

As such, both in-house counsel and lawyers in private practice at law firms remain excellent candidates to serve as volunteers in The Global Pro Bono Bar Operating Model [Figure 7].

<sup>25</sup> *Pro Bono — the Inside Story*, WHO’S WHO LEGAL (Feb. 13, 2014) (available at <http://whoswholegal.com/news/community/article/31124/pro-bono-inside-story/>).

<sup>26</sup> BUSINESS AND SDG 16: CONTRIBUTING TO PEACEFUL, JUST AND INCLUSIVE SOCIETIES, SUSTAINABLE GOALS DEVELOPMENT FUND, p. 41 (2017).



Figure 7: The Global Pro Bono Bar Operating Model - “Globally Sourced, Locally Tapped”

### The Global Pro Bono Bar Operating Model: “Globally-Sourced, Locally-Tapped”

Where globalization can create great disparities in legal capacity, it can also distribute public interest legal support with optimal efficiency. This is why globalized sourcing of legal support services, distributed internetworking, and local project leadership are the raw materials from which The Global Pro Bono Bar transnational pipelines are built. Local advocates are closest to the challenges and in the best position to pursue appropriate advocacy solutions, but often lack the legal research and support resources to do so. For such advocates, The Global Pro Bono Bar can be a unique source of competent legal assistance for such tasks as interviewing witnesses, reviewing documents, early drafting support, and other legal support tasks in accordance with applicable rules on the local practice of law. In the private sector, compelling synergies exist in engagement between local counsel advising on local law and the strategic role of international counsel to provide resources and an advocacy perspective beyond the instant jurisdiction. This dynamic also holds value in the context of pro bono and public interest advocacy.

In one clear statement illustrating this principle, Professor Cummings of UCLA has noted that:

*Lawyering within the international arena is thus notable for its tactical pluralism, embracing a broad range of non-traditional techniques such as lobbying, reporting, and organizing; its polycentrism, evident in the movement by lawyers into advocacy venues outside of the U.S.; and its connection to transnational alliances that operate to mobilize law across borders.*<sup>27</sup>

As this statement suggests, local and international approaches to advocacy are largely complementary. Of course, ***there is no reason that the power of a strategic international support mechanism coupled with local law capability should be reserved for paying multinational corporate clients.*** In fact, there is no reason that the power of this sort of legal capacity delivery system should be limited even to full-time practicing attorneys as opposed to legal academics or those who have left the full-time practice of law. This is why The Global Pro Bono Bar offers a pipeline to augment local advocacy solutions with globally-sourced public interest capacity for legal research and support services. The Global Pro Bono Bar invites requests for legal research and support services from local advocates (provided that there is a public interest basis for the request, and whether or not the local advocate partner is paid for legal services). The Global Pro Bono Bar then assembles virtual teams for collaboration with the local advocate as requested.

#### *The Global Pro Bono Bar Cluster Architecture: Virtual, Redundant, & Scalable Custom Advocacy*

Recent years have seen the advent of virtual law firms as the “new legal business model on the block,” with over 800 lawyers reportedly now working at such firms.<sup>28</sup> Virtual law firms have been described as “a decentralised legal practice where lawyers work remotely and use shared services provided by a central hub for functions such as compliance, accounting and administration.”<sup>29</sup> Even large traditional firms are experimenting with the virtual law firm concept, as with “Vario” by Pinsent Masons, which is “a group of freelance legal professionals that operates with the support of Pinsent Masons and can scramble quickly to provide in-house support on commercial and disputes work,” as well as other virtual teams, for examples, at Eversheds (“Agile”) and Berwin Leighton Paisner (“Lawyers on Demand”).<sup>30</sup> Lawyers who develop such virtual law practices “are now realising the major cost and time savings of practising remotely” as “‘virtual’ lawyers can make more money in fewer hours whilst working at times that suit them.”<sup>31</sup>

The Global Pro Bono Bar Cluster Architecture is an adaptation of this virtual law firm concept to serve the public interest. Each Global Pro Bono Bar Advocacy Cluster in the legal support services

---

<sup>27</sup> Scott Cummings, *The Internationalization of Public Interest Law*, 57 DUKE LAW JOURNAL 891 (2008) (excerpted in PUBLIC INTEREST LAWYERING: A CONTEMPORARY PERSPECTIVE (edited by Alan K. Chen & Scott L. Cummings, Wolters Kluwer, 2012)).

<sup>28</sup> *Rise of the Virtual Law Firm*, NEW LAW JOURNAL (Jan. 16, 2017), available at <https://www.newlawjournal.co.uk/content/rise-virtual-law-firm> (accessed Jan. 16, 2018).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

context (as opposed to the more flexible legal research context) minimally includes the following:

- Local Advocate Partner (Point of Contact);
- Cluster Administrator (Liaison to The Global Pro Bono Bar);
- Cluster Leader;
- Team Leader(s); and
- Team Advocate(s) and/or Clinical Student(s).

Redundant teams are used in support of each matter at a minimum ratio of two teams to one matter in order to ensure emergency staffing and quality control. As such, two teams are available to develop each work product or service task for a given cluster leader (*i.e.*, a senior individual with advanced legal experience and responsibility over the relevant matter) who guides the cluster's efforts toward final product delivery. The Global Pro Bono Bar Cluster Architecture is also scalable in that it allows for the dynamic assignment of teams. This allows for a bespoke approach to each matter (*i.e.*, allowing for support resources to be adjusted based on the service requirement as well as the training and experience of the members of a given cluster).

#### *Disrupting Traditional Paradigms of Public Interest Legal Research & Service Support*

As mentioned above, the OECD has identified four factors that are increasing competitiveness in the global market for legal services:

- Online service delivery;
- Availability of ranking and review information;
- Unbundling of services; and
- Automation.

Ironically, these same four factors that are making competition fiercer for traditional law firms offer the increased efficiency that makes The Global Pro Bono Bar Cluster Architecture possible. Online communication and service delivery allows for the use of virtual teams with members situated anywhere around the globe to provide public interest support to local advocates [Figure 8]. To promote quality control for work products and legal support services, The Global Pro Bono Bar utilizes a system of social media ranking (a parallel to online ranking and review information) for each volunteer based on evaluations from other volunteers in supervisory roles, the relevant Cluster Administrator, local advocate partners, and peers. Volunteers who deliver quality service will continue to be invited to engage with increasingly responsible roles in legal research and support services while those who fail to do so will have available assignments adjusted accordingly. While the unbundling of services operates to reduce costs for law firms in the for-profit context, a similar principle allows for the division of tasks among Global Pro Bono Bar teams within a given cluster for greater efficiency. Of course, automation also offers gains in efficiency that render possible the support of complex matters by minimal volunteer resources.

Overall, the same forces that are driving uncertainty in the global market for legal services are also opening previously unimaginable opportunities for public interest advocacy through The Global Pro Bono Bar Cluster Architecture.





**Figure 8: One of the Many Possible Configurations of The Global Pro Bono Bar Cluster Architecture - Virtual, Redundant, & Scalable Custom Advocacy Disrupting Traditional Paradigms of Public Interest Legal Research & Service Support**

### **The Global Pro Bono Bar Value Propositions & Developing Projects**

As a dues-based professional membership organization with a global public interest mission, The Global Pro Bono Bar can be more effective than for-profit international law firms in providing strategic legal research and support services to Local Advocates in need of greater legal capacity. The resulting collaboration brings within local reach a range of options for global legal empowerment, from legal research and training or capacity-building to high-profile strategic litigation support services in areas in which such legal support capacity is in greatest need.

In particular, this model may prove even more effective than private international law firm pro bono engagement in many cases as individual practitioners from multiple competing law firms could join forces under the auspices of a single Global Pro Bono Bar Advocacy Cluster.

Three distinct value propositions show how this works as The Global Pro Bono Bar:

- 1) Overcomes International Law Firms' Hesitation to Engage in Sensitive Jurisdictions;
- 2) Overcomes International Law Firms' Positional Conflicts; and
- 3) Overcomes International Law Firms' Challenges to Scalability & Complexity.

Each of these core value propositions is considered in turn below.

*Global Pro Bono Bar Value Proposition #1: Overcoming International Law Firms' Hesitation to Engage in Sensitive Jurisdictions*

The Global Pro Bono Bar Operating Model outlined above is especially effective in supporting advocacy efforts in sensitive jurisdictions where political or regulatory opposition (*e.g.*, limits on the authorized practice of law by foreign entities) inhibits pro bono legal advocacy. The need for public interest legal research and support services in the fight against human trafficking in India is a ready example. There is an apparently desperate need for public interest legal assistance in India as “[e]xperts estimate millions of women and children are victims of sex trafficking in India” while “[d]espite reports of officials complicit in trafficking, the government did not report investigating such allegations.”<sup>32</sup> Further, it has been noted that “[t]he government’s conviction rate and the number of investigations, prosecutions, and convictions was disproportionately low relative to the scale of trafficking in India, particularly with respect to bonded and forced labor.”<sup>33</sup> Clearly, there is work to be done in the fight against human trafficking in India.

Unfortunately, this work is not likely to be done by international law firms’ pro bono programs anytime soon. Until such time as ongoing efforts to liberalize the legal services sector in India ultimately prove successful, it reportedly remains the case that “the country remains closed to foreign law firms, which are not permitted to open offices there, thanks to ‘a very powerful’ lobby representing a handful of large domestic firms.”<sup>34</sup> As “the world’s second-fastest-growing major economy,” India holds a distinct appeal as a legal market for international law firms, and many international law firms support their clients in India on a fly-in, fly-out basis. Due to local opposition to competition with international law firms in India, however, most international law firms have no offices in India, and also limited or no meaningful pro bono engagement in India. Unfortunately, this also has the perhaps unintended effect of generating hesitation within international law firms concerned over the perceived risk of violating Indian rules on the unauthorized practice of law (and risking the future ability to engage with paying clients in India) in the course of providing pro bono legal assistance, such as to anti-trafficking NGOs and victims of human trafficking in India. As a result, many international pro bono resources that would otherwise be available to survivors of human trafficking in India do not reach those in need.

---

<sup>32</sup> *India*, 2017 TRAFFICKING IN PERSONS REPORT, U.S. DEPARTMENT OF STATE OFFICE TO MONITOR & COMBAT TRAFFICKING IN PERSONS (2017), available at <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271205.htm>.

<sup>33</sup> *Id.*

<sup>34</sup> Marialuisa Taddia, *India: Office politics*, THE LAW SOCIETY GAZETTE (Apr. 24, 2017), available at <https://www.lawgazette.co.uk/features/india-office-politics/5060728.article> (accessed Jan. 16, 2018).



## *Global Pro Bono Bar Value Proposition #2: Overcoming International Law Firms' Positional Conflicts*

Another situation in which The Global Pro Bono Bar Operating Model provides a unique solution is the support of public interest organizations working on issues with which many international law firms would consider themselves to have “positional conflicts” (or “reputational conflicts”). Such “conflicts” generally arise when law firms have concerns that representation of certain public interest clients may require a line of advocacy that could be detrimental to current client relationships or future business development efforts targeting corporate or governmental entities with contrary interests. A key example of one such conflict arises in the context of the representation of international media organizations publishing news stories for the public interest in good faith, but facing cease-and-desist demand letters or defamation claims in cross-border litigation from well-funded entities or individuals in the private sector that may have an interest in eliminating the impact of such reporting from the public sphere. International law firms have been known to refuse to provide pro bono support (or indeed, representation of any kind) to such media organizations where any perceived negative impact on the firms’ future business prospects may exist.

## *Global Pro Bono Bar Value Proposition #3: Overcoming Challenges to Scalability & Complexity*

When international law firms consider undertaking pro bono matters, cost and time commitments are always a factor. Many such firms will shy away from projects involving multiple jurisdictions or potentially costly litigation. As a consequence, many large-scale or complex multi-jurisdictional public interest matters may never obtain pro bono support from international law firms. The road to seeking justice in such matters can be a long and lonely one for civil society organizations or individual complainants. The Global Pro Bono Bar Operating Model organizes legal resources globally to facilitate transference of public interest legal research and support services to the places where help is needed most, making support for large-scale or complex multi-jurisdictional pro bono matters available where some international law firms would refuse to take the perceived risk. The Global Pro Bono Bar Cluster Architecture is easily scalable and adaptable to meet such public interest legal needs wherever they may arise.

## **The Global Pro Bono Bar Phases of Expansion**

The Global Pro Bono Bar is expanding in accordance with three phases as outlined below.

### *Expansion Phase I: Legal Research & Capacity-Building on Campus*

Phase I has involved outreach to law students and faculty members at partner institutions in The Global Pro Bono Bar Network in Asia, Europe, and North America, with interested volunteers receiving the first invitations to become members of The Global Pro Bono Bar. Additional incentives include participation in writing competitions on legal research topics of interest to local advocates or international NGOs for publication in academic journals or the popular press. Interested practitioners and faculty members have been asked to provide oversight in the development and assessment of student work, and excellent submissions will be made publicly available (where appropriate) to expand the legal research capacities of NGOs and local advocates

working in areas of need. Law firms and legal publishers are also being invited to engage in pro bono capacities to assist with the development of student scholarship as well as to arrange legal internships or the publication of articles written by students placing well in competition. Student members of The Global Pro Bono Bar will be invited to continue providing legal research and support services as Team Advocates on future projects in support of Local Advocate Partners.

A number of initiatives are also underway to promote collaborative engagement and public interest legal scholarship by Global Pro Bono Bar members from civil society, academia, and the legal profession (including practicing as well as non-practicing members) through The Global Pro Bono Bar Network. One recent example of such collaboration is the intercontinental organization of law student research teams in support of panelists preparing for various aspects of the panel discussion *The Role of Public Interest Engagement in Developing International Law: From Pro Bono Practice to Private Sector Involvement*, presented at the 2018 biennial conference of the International Law Association in Sydney, Australia.

#### *Expansion Phase II: Legal Support Facilitation & Distributed Cluster Architecture*

As The Global Pro Bono Bar grows in membership and capacity, outreach efforts will expand to identify and attract volunteers who have legal training, legal experience, and a heart to make positive change by putting their legal talents to meaningful use, whether as legal professionals in private practice at law firms, in-house corporate legal departments, law students, legal academics, or former legal professionals who have retired or left the practice of law for family or other reasons. Detailed volunteer profiles are being developed for the future assembly of Global Pro Bono Bar Clusters to provide legal research and support services to local advocates working to advance public interest causes of broad moral consensus (including in the fight against modern slavery).

#### *Expansion Phase III: Sustainability as a Dues-Based Membership Organization & Potentially Limitless Global Legal Capacity*

As the organization matures in membership and capacity, the dues-based membership model will lead to a self-sustaining organizational approach, with any supplemental grant funding employed to expand baseline programming offerings and to develop targeted and timely advocacy initiatives. Proposals for future Global Pro Bono Bar project relationships will be accepted from Local Advocates engaged in public interest advocacy in areas of need. Ultimately, The Global Pro Bono Bar will maintain dues-based membership relationships with local and international law firms as well, based on the value provided to such firms through the availability of pro bono project engagement opportunities. We believe this approach has potentially limitless global legal capacity.

#### **Addressing Concerns with The Global Pro Bono Bar Operating Model: Clearing Possible Blockages in the Pipelines**

Certain concerns may represent sources of potential blockage in The Global Pro Bono Bar pipeline of public interest legal services. None are insurmountable, and we address each in turn below.

### *Ensuring Quality: Tapping the Power of Redundancy & Social Media*

The critical challenge facing volunteer legal services organizations is ensuring quality in volunteer service and resultant work products. As discussed above, The Global Pro Bono Bar employs a redundant system of team assignment as one tool to address such concerns. In the event that a volunteer from a given team fails to perform assigned tasks satisfactorily, members from the redundant team may serve as ready alternative volunteers to carry the work forward. The Global Pro Bono Bar is also developing a system of social media-based volunteer evaluation in the form of a consolidated rating for each volunteer based on past evaluations from supervising team members, Local Advocate Partners, and peers as appropriate. Future volunteer opportunities will be made available on the basis of these individual ratings as an incentive to reward consistency and quality.

### *Interaction with Other Organizations in the Field*

While few non-profit organizations in the world seem to have adopted operating models similar to The Global Pro Bono Bar Operating Model, there is some precedent for the cross-border coordination of local public interest efforts in other jurisdictions. In the recent aftermath of Hurricane Maria's devastating impact on Puerto Rico and the U.S. Virgin Islands, for example, a Louisiana-based non-profit organization operated a call center to connect those in the storm-affected areas with pro bono legal support service providers.<sup>35</sup> Of course, pro bono clearinghouse operations like TrustLaw also exist to provide referral services as well.<sup>36</sup> One of the best features of The Global Pro Bono Bar is the complementarity of its approach with the approaches of other advocacy organizations. The Global Pro Bono Bar is fully open to collaboration with other dedicated organizations pursuing similar public interest objectives in the belief that collaboration benefits all involved and increases the support available to those who need it most.

### *Engagement with Local Advocates*

As mentioned above, The Global Pro Bono Bar focuses its resources in support of local advocates on the ground where greater public interest legal capacity is needed most. While coordination may sometimes be difficult given that the work of such local advocates may be unwelcome in their home jurisdictions, The Global Pro Bono Bar is about long-term expansion of the capacity necessary to overcome such deep-seated challenges. Only time and hard work will improve many situations, but The Global Pro Bono Bar is working to set the conditions for such local advocates to be successful, while keeping them in control of the flow of legal research and support services from The Global Pro Bono Bar Network to bolster their local advocacy efforts.

---

<sup>35</sup> See Kriston Capps, *Another Desperate Need for Puerto Rico: Lawyers*, CITYLAB.COM (Oct. 4, 2017), available at <https://www.citylab.com/equity/2017/10/how-louisiana-is-coordinating-legal-aid-for-puerto-rico-after-hurricane-maria/541899/>.

<sup>36</sup> See *Free Legal Assistance: How It Works*, THOMSON REUTERS FOUNDATION, available at <http://www.trust.org/trustlaw/> (accessed Jan. 15, 2018) ("TrustLaw is a completely free service. Once they become members, NGOs and social enterprises can request free legal support, and lawyers can volunteer to work on projects that interest them.").

### *Unauthorized Practice of Law*

In order to practice law in a given jurisdiction, one must comply with local jurisdictional requirements (e.g., being a member of the local bar, etc.). As such, The Global Pro Bono Bar reviews specific requests for support that involve the practice of law in a given jurisdiction to identify necessary requirements and to make arrangements for matter support accordingly. The targeted legal scholarship component of The Global Pro Bono Bar Operating Model is unlikely to involve the practice of law in any relevant jurisdiction *per se* (and any Global Pro Bono Bar scholarly work product will state clearly that it is not offered as legal advice). On the other hand, The Global Pro Bono Bar will work to ensure that all legal support services comply with relevant rules regarding the practice of law. Importantly, however, as Local Advocates are likely to be local law practitioners in most cases, any support relationship in The Global Pro Bono Bar Network would likely have certain parallels to the relationship between a local law firm and international law firm or paid legal support service (e.g., as with paid litigation service support providers). To the extent that such working relationships are allowed and comply with applicable rules on the local practice of law (which is almost certain to be the case for the vast majority of jurisdictions), The Global Pro Bono Bar anticipates no issues with compliance under such rules.

### *How Global Pro Bono Bar Volunteers Navigate Conflicts*

Where a given matter involves the practice of law, applicable rules of professional conduct will likely require that only individuals who have no ethical or other conflict with acting in that matter do so. Global Pro Bono Bar members are only assigned to a given advocacy cluster after either (1) a thorough review confirms that no potential conflicts exist; or (2) informed consent has been obtained where appropriate. Given the virtual nature of The Global Pro Bono Bar Cluster Architecture, each cluster will work on its assigned matter independently of the others, with matter information to be kept confidential as required. In the event concerns relating to potential conflicts arise under applicable rules of professional conduct, such potential conflicts will be resolved on a case-by-case basis with approval to be obtained where appropriate.

### *Data Security & Preservation of Legal Privilege*

Data security and preservation of legal privilege in appropriate circumstances are critical concerns for the smooth functioning of The Global Pro Bono Bar Operating Model. While only a subset of the total support requests received will require confidential treatment to avoid improper disclosure of data or the potential loss of legal privilege, confidentiality may be critical in such cases. The Global Pro Bono Bar utilizes data security solutions developed for virtual law firm case management to address this concern.

### *Licensing & Malpractice Insurance*

While many projects of The Global Pro Bono Bar will not properly be characterized as the practice of law, those projects for which the practice of law is appropriate may require attorney licensing and malpractice insurance coverage. Developing such coverage as a component of membership in The Global Pro Bono Bar is a priority for the near future.

## *The Global Pro Bono Bar Communications Strategy*

The Global Pro Bono Bar generally utilizes its online presence and word-of-mouth advertising to develop membership enrolment and volunteer engagement. We are proud to have adopted an open collaboration policy with other organizations, recognizing that our efforts are only strengthened by working with others toward achieving similar goals in the public interest. Ultimately, The Global Pro Bono Bar's innovative approach leverages the networking potential of globalization to create value in collaboration for all involved, placing a global legal support network in the palm of the Local Advocate's hand [Figure 10].



**Figure 10: The Global Pro Bono Bar - The Power of Globalization in the Palm of the Local Advocate's Hand**

### **The Global Pro Bono Bar Network**

The Global Pro Bono Bar Model has attracted a great deal of attention, with current institutional partners in The Global Pro Bono Bar Network including the following:

- Amsterdam Law Practice Program, University of Amsterdam Law School - *Amsterdam*
- BABSEACLE - *Chiang Mai*
- Danwatch - *Copenhagen*
- International Justice Mission - *Washington, DC*
- International Center for Not-for-Profit Law - *Washington, DC*
- The Legal Ethics and the Profession (LEAP) Program, UCLA School of Law - *Los Angeles*
- Liberty Asia - *Hong Kong*
- The Mekong Club - *Hong Kong*
- The Sciences Po Law School Clinic - *Paris*
- Tessaract.io - Exclusive Case Management & Collaborative Software Partner (Asia) - *Singapore*
- Transparentem - *New York*
- The University of Queensland Pro Bono Centre - *St Lucia (Australia)*

---

To learn more about The Global Pro Bono Bar or to join in our efforts by volunteering or making a donation, please visit us online at [www.probonobar.org](http://www.probonobar.org).